

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL DOCKET NO.: 5:13CV111-RLV**

**EXELA PHARMA SCIENCES, LLC,**

**Plaintiff,**

**v.**

**CORNERSTONE THERAPEUTICS, INC.<sup>1</sup>,  
CORNERSTONE BIOPHARMA, INC., and  
EKR THERAPEUTICS, LLC,  
Defendants.**

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**ORDER**

**THIS MATTER** is before the Court upon notice from the Defendants that on June 16, 2014, the presiding judge in the Delaware Action denied Plaintiff Exela Pharma Sciences, LLC's Motion to Transfer the parallel lawsuit to this district.<sup>2</sup> (Doc. 44 / Exh. A).

This lawsuit has been stayed since October 2013 pending ruling by the Delaware Court, which was the undisputed first-filed action.<sup>3</sup> (Doc. 40). In light of the District of Delaware's recent decision to retain the case brought within its forum, the undersigned will deny Defendants' Motion to Dismiss and grant Defendants' Alternative Motion to Transfer Venue to the District of Delaware pursuant to 28 U.S.C. § 1404(a).

**IT IS, THEREFORE, ORDERED** that Defendants' Motion to Dismiss is **DENIED** and

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<sup>1</sup> In the most recent filing, counsel for Defendants represents that named Defendant Cornerstone Therapeutics, Inc. is now doing business as "Chiesi USA, Inc." (Status Report, at 1).

<sup>2</sup> Plaintiff Exela Pharma Sciences, LLC brought its declaratory judgment action in the Western District of North Carolina seeking judgment that Plaintiff is not infringing upon Defendants' 7,659,290 Patent ("the '290 Patent") and that the '290 Patent is invalid. (Doc. 5 / Exh. A). Defendants Cornerstone Therapeutics, Inc., Cornerstone Biopharma, Inc., and EKR Therapeutics, LLC had earlier initiated litigation in the United States District Court of the District of Delaware alleging that Plaintiff Exela was infringing upon several of its Cardene® I.V. Premixed Injection patents. (Doc. 26-2).

<sup>3</sup> Defendants requested to transfer venue of Exela's declaratory judgment action to Delaware, while Exela moved to transfer the Delaware action to this district. (Docs. 24; 34-4).

Defendants' Alternative Motion to Transfer Venue is **GRANTED**. (Doc. 24). Accordingly, the Deputy Clerk is hereby directed to **TRANSFER** this matter to the United States District Court for the District of Delaware for appropriate disposition.

Signed: June 24, 2014

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
United States District Judge

